

GURDIT SINGH v. LIM YIN.

[Appellate Civil Juris. (Evans, J.) July 17, 1947]

Labour Code, section 85 and 228 — Claim for wages — Whether Controller of Labour has jurisdiction to deal with such claims.

The applicant in this case claimed before the Magistrate wages for the first three days of May plus one month's wages in lieu of notice from the defendant by whom he alleges he was employed as a watchman. At the hearing before the Magistrate the defendant produced a letter from the defendant to the plaintiff stating that the sum of \$29/- as "3 days' wages plus 2 weeks' wages as directed by the said Commissioner" had been deposited with the Commissioner of Labour. On this letter is an ink note purporting to be signed by some person as Deputy Commissioner of Labour. According to the Magistrate's Notes of Evidence this is a Certificate to the effect that the case had been dealt with in the Labour Office. The note adding that "plaintiff does not dispute this."

Held, (1) that the general provisions of the Labour Code do not confer any general jurisdiction on the Controller of Labour and therefore there was no jurisdiction for the Deputy Commissioner to deal with this case; (2) that there was no indication of how the alleged judgment was proved or the grounds on which it was accepted as such and that on the facts there was no evidence before the Magistrate on which he could have come to the conclusion he did.

CIVIL APPLICATION.

Evans, J. : — The applicant claimed before the Magistrate wages for the first three days of May plus one month's wages in lieu of notice from the defendant by whom he alleges he was employed as a Watchman at the rate of \$52.80 per month. The proceedings before the Magistrate seem to have been short; both the Notes of Evidence and the Grounds of Judgment are very brief. The defendant seems to have produced a copy of a letter from the defendant to the plaintiff stating that the sum of \$29/- as "3 days' wages plus 2 weeks' wages as directed by the said Commissioner" had been deposited with the Commissioner of Labour. On this letter is an ink note purporting to be signed by some person as Deputy Commissioner of Labour. According to the Notes of Evidence this is a certificate to the effect that the case has been dealt with in the Labour Office, the note adds that "plaintiff does not dispute this".

In fact the note reads:—"The Manager of Chun Koong & Co., has deposited \$29/- being 17 days' wages (3 days actual work done and 14 days' wages in lieu of notice). Gurdit Singh is a watchman and not a labourer under the Labour Code. He is entitled only for 14 days' wages in lieu of notice. Signed (?) Dy. Commissioner for Labour, Perak 2.6.47". It is therefore on the face of it a memorandum of deposit with a statement, apparently erroneous, of the law. The Grounds of Judgment do not set out the provisions

relied on and are in fact very defective as they give no indication of how the alleged judgment was proved or the grounds on which it was accepted as such.

This note is not such a document as could possibly be accepted in any Court of Law as proof, in itself, of a Judgment. It neither refers to any dispute nor does it make clear that both sides have been heard. The nature of the transaction referred to and the title used by the signatory of the note suggest that any jurisdiction claimed is under the Labour Code. This professes to be a Code, but, in fact, the general provisions therein are limited and largely consist of a number of chapters of more detailed provisions as to particular classes or cases. In one such class dealt with in Chapter 8 the Controller of Labour seems to have some general jurisdiction, but there is nothing to show that the appellant in this case falls within this or any other of the special classes. It is in fact probable from the appearance of the appellant, that the case does not fall within this Chapter. The general provisions of the Code do not confer any general jurisdiction on the Controller of Labour, but, on the other hand, Section 228 specifically preserves the right of civil action, while section 85 clearly contemplates as a general procedure the institution by the Controller of Labour of proceedings in the civil courts. There was no evidence before the Magistrate on which he could have come to the conclusion he did, and the case is therefore remitted for trial.

Order Accordingly.

KRISHNASAMY AND OTHERS v. D. C. BUTLER MADDEN.

[Orig. Civil Juris. (Evans, J.) August 23, 1947]

Specific Relief Enactment, Section 45 — Application for order to Assistant Food Controller to withdraw cancellation of retail licences — Judicial discretion — Food Control Proclamation — whether Assistant Food Controller has power to cancel licences — Delegation of Powers — Food Control Enactment 1939.

This was an application for an order under section 45 of the Specific Relief Enactment directed to the respondent who is the Assistant Food Controller of Lower Perak to withdraw the cancellation of the applicants' retail licences issued in February 1947. The applicants were seven traders carrying on business as general merchants or sundry goods shop keepers. They were granted by the Respondent on various dates in February 1947 licences in identical form to deal in food-stuffs retail, and to sell and store such foodstuffs at their respective premises. The licences purported to be given by the Food Controller and are signed by the respondent. They were limited to expire on 31st December 1947. At various dates on or between 12th and 18th of March 1947 they severally received a letter from the respondent again in identical terms informing each that